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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,586	08/28/2003	Norman D. Harty	2819-001	7448
22208	7590	06/04/2004	EXAMINER	
ROBERTS ABOKHAIR & MARDULA SUITE 1000 11800 SUNRISE VALLEY DRIVE RESTON, VA 20191			FULTON, CHRISTOPHER W	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/650,586	HARTY, NORMAN D.	
	Examiner	Art Unit	
	Christopher W. Fulton	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date 11/24/03. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Snowden or Chapman.

The device as claimed is disclosed by either Snowden or Chapman with a laser, a measuring device, and a target.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Randolph.

The device as claimed is disclosed by Randolph with a laser, first down markers, a chain, and a target.

### *Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden or Chapman.

The device as claimed is disclosed by either Snowden or Chapman as stated in the rejection recited above for claim 1, but lacks the specific wavelength claimed for the laser, first down markers with a chain, and the specific size claimed for the target. Both of the base references disclose using a laser which is visible. The wavelength claimed is known to be in the readily visible range. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a laser with a wavelength in the claimed range in either Snowden or Chapman to the laser can be readily seen during use of the device. First down markers separated by a chain as old and well known in the art to indicate first downs. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use first down markers connected by chains in either Snowden or Chapman to clearly indicate the distance needed for a first down. With respect to the specific size of the target, lacking some criticality, size is not considered a patentably distinct feature. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the target

of either Snowden or Chapman the claimed size to provide a desired size to view the laser hitting a target.

7. Claims 2-4 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randolph.

The device as claimed is disclosed by Randolph as stated in the rejection recited above for claims 1 and 5, but lacks the specific wavelength claimed for the laser and the specific size claimed for the target. Randolph discloses using a laser which is visible. The wavelength claimed is known to be in the readily visible range. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a laser with a wavelength in the claimed range in Randolph to the laser can be readily seen during use of the device. With respect to the specific size of the target, lacking some criticality, size is not considered a patentably distinct feature. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the target of either Randolph the claimed size to provide a desired size to view the laser hitting a target.

*Allowable Subject Matter*

8. Claims 11 and 12 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-W & F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton  
Primary Examiner  
Art Unit 2859

CWF